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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,058	12/11/2003	Noel G. Smith	Erv Smith	2499
26365	7590	07/13/2007		
ANTHONY J. BOURGET P.O. BOX 81 EAU CLAIRE, WI 54702-0081			EXAMINER EDWARDS, LAURA ESTELLE	
			ART UNIT	PAPER NUMBER
			1734	
			MAIL DATE	DELIVERY MODE
			07/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/735,058	SMITH, NOEL G.	
	Examiner	Art Unit	
	Laura Edwards	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-55, 62-71 and 103-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-51, 65, 69-71 and 103-108 is/are allowed.
- 6) ☒ Claim(s) 29-37, 52, 62-64 and 66-68 is/are rejected.
- 7) ☒ Claim(s) 53-55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f)..
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29-37, 52, 62-64, and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stohr (US 4,953,734) for reasons already set forth in the final office action as of 7/20/06.

Allowable Subject Matter

Claims 53-55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 38-51, 65, 69-71, and 103-108 would be allowable.

Response to Arguments

Applicant's arguments filed 9/14/06 and 4/30/07 have been fully considered but they are not persuasive.

Applicant contends that the 103 rejection under Stohr has been improperly applied using Applicant's claimed invention as a blueprint to result in hindsight reconstruction of the claimed invention. In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgement on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

Art Unit: 1734

time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. *In re McLaughlin*, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

The single reference to Stohr, as argued by Applicant, does not suggest all the features of the claimed invention, for example, there is no suggestion to modify the cabin-like cover to provide for the second lip extending from an outward end of the first lip while maintaining the acute angle. This argument is well taken, however, Stohr does provide the routineer in the art with the conventional wisdom to interconnect or interlock two adjacent panels via abutting bends, of an appropriate shaped (Z or even U-shaped) lips (2d, 2'9) of two adjacent panels (2, 2'). The design of the lips such that they bend at an angle of less than 90 degrees is within the purview of one skilled in the art.

Applicant contends that modification of the Stohr reference to include the second lip oriented at an acute angle with respect to the first lip would be an impossible modification and just would not work. This argument would appear to be merely Applicant's opinion but would be an insufficient grounds to warrant a grant of patentability on broadly written claim 29.

Applicants argues that one skilled in the art would not have been lead to modify the apparatus of Stohr to meet the limitations of claim 62, especially, one skilled in the art would not be lead to modify the first lip 2d of Stohr to be oriented substantially parallel to the at least one of the panels since to do so would frustrate the snap-in connection (i.e., there is no showing that if lip 2d were parallel to one of the panels, that bend 2'a would be able to insert or abut for snap-in connection as referenced in Stohr (see Col. 2, lines 48-51, and Fig. 7)). Moreover, even if it were possible to do so, and even if one skilled in the art were inclined to change the angle of lip

Art Unit: 1734

2d, it would not be obvious to orient lip 2d at a substantially parallel angle to the at least one of the panels (all while at the same time maintaining the second lip 2d at an acute angle orientation with respect to the first lip 2d as claimed). This argument is well taken in that while the lips of Stohr are pointed in design like the beak of a bird, it still would not be far off course for one skilled in the art to provide the first lip including the second lip and wing (2'd) at less of an angle so as to provide for the first lip to be parallel with one of the panels. The lips of lesser angle design would not preclude the elements from abutting and/or interlocking with one another to connect the adjacent panels. In conclusion, it is the Examiner's position that claim 62 appears to be too broad to warrant a grant of patentability.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1734

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Laura Edwards
Primary Examiner
Art Unit 1734

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July 9, 2007